

FISCAL NOTE

SB 3849 - HB 3627

March 3, 2008

SUMMARY OF BILL: Increases from three to five years the mandatory minimum sentence for the Class D felony offense of possession of a firearm during the commission of a dangerous felony. Increases from five to seven years the mandatory minimum sentence if at the time of the offense, the defendant had a prior felony conviction. Increases from six to eight years the mandatory minimum sentence for the Class C felony offense of employment of a firearm during the commission of a dangerous felony. Increases from 10 to 12 years the mandatory minimum sentence if at the time of the offense, the defendant had a prior felony conviction.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$8,108,100/Incarceration*

Assumptions:

- Tenn. Code Ann. § 39-17-1324 became law in January of 2008. The statistics used in preparation of the fiscal note for SB 1967 – HB 1835 from 2007 are used for this fiscal note.
- According to Department of Correction, in October, 2005, 2.86 percent of the inmate population (547) had possession of a weapon by a convicted felon as a secondary offense. Annual admissions for FY06 for dangerous crimes were 5,012. DOC estimates two and one-half percent (125) of those annual admissions would have possession or employment of a firearm during the commission, attempt to commit, flight or escape from the commission, or flight or escape from the attempt to commit a dangerous felony. DOC assumes 75 percent (94) of those would be convicted of a Class D felony in the first year and would be required to serve a mandatory minimum 4.25 year sentence (five-year sentence at 85 percent) rather than a minimum 2.55 years as a result of this bill. Population growth would result in 11 additional offenders in the tenth year. The maximum cost in the tenth year is based on 105 offenders serving an additional 1.7 years (an increase from 2.55 years to 4.25 years) as a result of this bill.
- One hundred five offenders would be convicted of a Class D felony and would serve 4.25 years. The cost per inmate at 2.55 years is \$58,472.66 (\$62.78 x 931.39 days). The cost per inmate at 4.25 years is \$97,454.02

(\$62.78 x 1,552.31 days). The additional cost from increasing the average sentence length from 2.55 years to 4.25 years is \$38,981.36 (\$97,454.02 - \$58,472.66). The total additional operating cost for 105 offenders is \$4,093,042.80 (\$38,981.36 x 105). The remaining 25 percent (31) would be convicted of a Class D felony, with a prior felony conviction, in the first year and would serve a mandatory minimum 5.95 year sentence (seven-year sentence at 85 percent) rather than a minimum 4.25 years as a result of this bill. Population growth would result in four additional offenders in the tenth year. The maximum cost in the tenth year is based on 35 offenders serving an additional 1.7 years (an increase from 4.25 years to 5.95 years) as a result of this bill. 35 offenders will be convicted of a Class D felony and will serve a mandatory minimum 5.95 years. The cost per inmate at 4.25 years is \$97,454.02 (\$62.78 x 1,552.31 days). The cost per inmate at 5.95 years is \$136,436.01 (\$62.78 x 2,173.24 days). The additional cost from increasing the average sentence length from 4.25 years to 5.95 years is \$38,981.99 (\$136,436.01 - \$97,454.02). The total additional operating cost for 35 offenders is \$1,364,369.65 (\$38,981.99 x 35).

- Seventy-one inmates had attempted second degree murder as a primary offense. DOC assumes 25% (18) of these involved the use of a firearm. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 20 offenders. Seventy-five percent (15) of those would be convicted of employment of a weapon and would serve a mandatory minimum 6.8 year sentence (eight-year sentence at 85 percent) rather than a minimum 5.1 years as a result of this bill. The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1862.78 days). The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The additional cost from increasing the average sentence length from 5.1 years to 6.8 years is \$38,981.36 (\$155,926.69 - \$116,945.33). The total additional operating cost for 15 offenders is \$584,720.40 (\$38,981.36 x 15). The remaining 25% (5) would be convicted of employment of a weapon with a prior felony conviction and serve a mandatory minimum 10.2 year sentence (12-year sentence at 85 percent) rather than a minimum 8.5 years as a result of this bill. The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The cost per inmate at 10.2 years is \$233,890.03 (\$62.78 x 3,725.55 days). The additional cost from increasing the average sentence length from 8.5 years to 10.2 years is \$38,981.36 (\$233,890.03 - \$194,908.67). The total additional operating cost for five offenders is \$194,906.80 (\$38,981.36 x 5).
- Seventy-one inmates had voluntary manslaughter as a primary offense. DOC assumes 25% (18) of these involved the use of a firearm. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 20 offenders. 75 percent (15) of those would be convicted of employment of a weapon and

would serve a mandatory minimum 6.8 year sentence (eight-year sentence at 85 percent) rather than a minimum 5.1 years as a result of this bill. The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1,862.78 days). The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The additional cost from increasing the average sentence length from 5.1 years to 6.8 years is \$38,981.36 (\$155,926.69 - \$116,945.33). The total additional operating cost for 15 offenders is \$584,720.40 (\$38,981.36 x 15). The remaining 25 percent (5) would be convicted of employment of a weapon with a prior felony conviction and would serve a mandatory minimum 10.2 year sentence (12-year sentence at 85 percent) rather than a minimum 8.5 years as a result of this bill. The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The cost per inmate at 10.2 years is \$233,890.03 (\$62.78 x 3,725.55 days). The additional cost from increasing the average sentence length from 8.5 years to 10.2 years is \$38,981.36 (\$233,890.03 - \$194,908.67). The total additional operating cost for five offenders is \$194,906.80 (\$38,981.36 x 5).

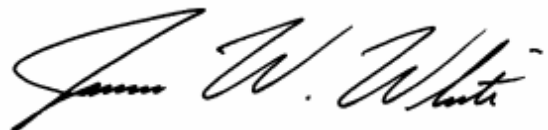
- Sixty-two inmates had evading arrest/risk of death as a primary offense. DOC assumes 25% (16) of these involved the use of a firearm. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 18 offenders. DOC estimates that 75% (14) would be charged with a Class C felony in the first year and would be required to serve a mandatory minimum 6.8 year sentence rather than 5.1 years as a result of this bill. The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1,862.78 days). The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The additional cost from increasing the average sentence length from 5.1 years to 6.8 years is \$38,981.36 (\$155,926.69 - \$116,945.33). The total additional operating cost for 14 offenders is \$545,739.04 (\$38,981.36 x 14). The remaining 25% (4) would have a prior felony conviction at the time of the offense and would serve a mandatory minimum 10.2 year sentence rather than a minimum 8.5 years. The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The cost per inmate at 10.2 years is \$233,890.03 (\$62.78 x 3,725.55 days). The additional cost from increasing the average sentence length from 8.5 years to 10.2 years is \$38,981.36 (\$233,890.03 - \$194,908.67). The total additional operating cost for four offenders is \$155,925.44 (\$38,981.36 x 4).
- Thirty-four inmates had carjacking as a primary offense. DOC estimates 25% (9) involved a firearm. Population growth will result in one additional offender in the tenth year. The maximum cost in the tenth year is based on 10 offenders. Estimate assumes 75% (7) would serve a minimum mandatory 6.8 year sentence rather than a minimum 5.1 years as a result of this bill. The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1,862.78 days). The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The additional cost from

increasing the average sentence length from 5.1 years to 6.8 years is \$38,981.36 (\$155,926.69 - \$116,945.33). The total additional operating cost for seven offenders is \$272,869.52 (\$38,981.36 x 7). The remaining 25% (3) would have a prior felony conviction at the time of the offense and would serve a minimum mandatory 10.2 year sentence rather than a minimum 8.5 years as a result of this bill. The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The cost per inmate at 10.2 years is \$233,890.03 (\$62.78 x 3,725.55 days). The additional cost from increasing the average sentence length from 8.5 years to 10.2 years is \$38,981.36 (\$233,890.03 - \$194,908.67). The total additional operating cost for three offenders is \$116,944.08 (\$38,981.36 x 3).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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